

The Gazette of India

EXTRAORDINARY

PART II—Section 2

PUBLISHED BY AUTHORITY

No. 33] NEW DELHI, FRIDAY, AUGUST 18, 1961/SRAVANA 27, 1883

LOK SABHA

The following Bills were introduced in Lok Sabha on the 18th August, 1961:—

BILL No. 37 OF 1961

A Bill further to amend the Representation of the Peoples Act, 1951.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:

1. This Act may be called the Representation of the People (Amendment) Act, 1961. Short title.

5 2. After clause (f) of section 7 of the Representation of the Amendment
43 of 1951. People Act, 1951, the following shall be added at the end, namely:— of section 7.

“(g) if, he is a Ruler of an Indian State, as defined in Clause (22) of Article 366 of the Constitution and is in receipt of a Privy Purse under Clause (b) of Article 291 of the Constitution”.

STATEMENT OF OBJECTS AND REASONS

The Rulers of the Indian States, as defined in Clause 22 of Article 366 of the Constitution, partake of the nature of a sovereign, inasmuch as the covenanted Privy Purse that they are in enjoyment of under Clause (b) of Article 291 of the Constitution is tax-free. These Rulers also enjoy a special privilege, in being immune from the due process of law in civil and criminal proceedings. The covenanted Privy Purse, which they enjoy, is in the nature of 'royal bounty' as it is understood in U.K. Thus the hereditary dignities, covenanted Privy Purses in the nature of 'royal bounty' and special privileges, which they enjoy, clothe them with all the disability, which the Peers in U.K. attract, in being elected to the U.K. House of Commons. Notwithstanding the fact that the Rulers may remain as citizens, defined in Article 5 of the Constitution, they will not be qualified to be chosen to fill a seat in Parliament or the State Legislatures; being beneficiaries of State bounties. The present Bill seeks to achieve that pattern, and remove an anomaly which is repugnant to the underlying spirit and the republican ideals of our Constitution and socialistic aims of our society.

NEW DELHI;

SURENDRA MAHANTY

The 17th April, 1960.

BILL No. 48 OF 1961

A Bill to provide for removal of disqualifications for membership of and voting at elections to Parliament and State Legislatures.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Representation of the People Short title. (Removal of Disqualifications) Act, 1961.

5 2. Every disqualification for membership of Parliament or a Removal of State Legislature or for voting at such elections incurred prior to disqualifi- 31st December, 1961 by any person under the Representation of the cation. People Act, 1951 for any corrupt practice other than the corrupt practice of bribery and undue influence is hereby removed.

STATEMENT OF OBJECTS AND REASONS

In connection with elections bribery and undue influence are considered such serious corrupt practices that those indulging in them should not be allowed to take part in the next general elections. However, the other practices are merely technical and much importance need not be attached to them in this country. Those found guilty of such corrupt practices should be disqualified only upto the time of the next general elections, as they might not take part in any bye-election but at the time of next general elections their disqualifications should be removed to enable them to participate in them.

Hence this Bill.

NEW DELHI;

KHUSHWAQT RAI

The 30th May, 1961.

BILL NO. 24 OF 1961

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, Short title. 1961.

5 2. In Article 226 of the Constitution, in clause (1) the following Amendment proviso shall be added at the end and shall be deemed always to of Article 226. have been added, namely:—

“Provided that nothing herein contained shall be deemed as
excluding the jurisdiction of the High Court of any State in respect
10 of any order passed by any authority inside the State, whether
such order has been dealt with in appeal or revision by any
authority outside the State or not”.

STATEMENT OF OBJECTS AND REASONS

Judicial interpretations have differed as to the place where an application under Article 226 of the Constitution should be filed. The Madras High Court (Collector of Customs Vs. Abdul Rahiman A.I.R. 1957 Madras 496) has held that this jurisdiction belongs only to the Court within whose territory the appellate or revisional authority has its office, if appeal or revision has been filed. The Calcutta High Court, on the other hand, has held (East India Commercial Ltd., Vs. Collector of Customs and another reported in A.I.R. 1960, Calcutta at page 1) that the application can be laid wherever the original authority is situate.

In this state of uncertainty, there has been a large influx of petitions under Article 226 of the Constitution to the East Punjab High Court. Thus the remedy provided by this Article has become expensive and is fraught with delay. If an aggrieved party does not prefer an appeal as provided in the statute, the application under Article 226 is liable to be dismissed *in limine* by the High Court on the ground that all the remedies prescribed by the law have not been exhausted whereas if the party does file an appeal and it is dismissed, he is obliged to file the application under Article 226 only in the East Punjab High Court having territorial jurisdiction over Delhi. The Lawyers' Conferences held in December 1959 in Patna and in Nagercoil in April 1960 both passed resolutions that suitable legislation should be enacted to remedy the situation.

The Law Commission also addressed itself to this matter and observed in paragraph 17 of its 14th report as follows:—

“High Courts other than the High Court of the Punjab have found themselves unable to exercise jurisdiction under Article 226, when the statutory authority or official concerned has headquarters in Delhi. This tends to defeat the very purpose of the jurisdiction conferred by Article 226 which is to enable a person to seek a remedy under that article in respect of acts done in violation of his rights within the State by an application to the High Court of his own State.

A later decision of the Supreme Court seems to have modified the earlier view but the matter is by no means clear.

In our view, this hardship imposed upon a person seeking relief needs removal".

The present Bill proposes an amendment which will serve the purpose. In order to cover pending cases it provides that the amendment be deemed as operative from the date of commencement of the Constitution.

NEW DELHI;
The 14th March, 1961.

C. R. NARASIMHAN

M. N. KAUL,
Secretary.

